

STEPHANIE M. HINDS (CABN 154284)
Acting United States Attorney

HALLIE HOFFMAN (CABN 210020)
Chief, Criminal Division

SAMANTHA SCHOTT BENNETT (NYBN 5132063)
JONATHAN U. LEE (CABN 148792)
Assistant United States Attorneys

1301 Clay Street, Suite 340S
Oakland, California 94612
Telephone: (510) 637-3680
FAX: (510) 637-3724
Samantha.Bennett@usdoj.gov
Jonathan.Lee@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR 20-317-JSW-9
)	
Plaintiff,)	
)	UNITED STATES'
v.)	SENTENCING MEMORANDUM
)	
ARMANDO NAVARRO-PIÑONES,)	
)	Date: August 10, 2021
Defendant.)	Time: 1:00 p.m.
)	Before: Hon. Jeffrey S. White

1 **I. INTRODUCTION**

2 Defendant Armando Navarro-Piñones will appear before this Court on August 10, 2021, for
3 change of plea and sentencing for conspiring to distribute controlled substances, namely 50 grams or
4 more of methamphetamine. The defendant has been in continuous custody since his arrest on September
5 10, 2020. The government submits this sentencing memorandum to advise the Court of its sentencing
6 recommendation, should the defendant enter a guilty plea as anticipated.

7 The government recommends that the Court sentence the defendant to a term of 70 months' and
8 four years of supervised release to follow, if the defendant is not deported. The government submits that
9 this sentence is sufficient but not greater than necessary to meet the goals of sentencing.

10 As an initial matter, as discussed more fully below, the defendant is eligible for relief under the
11 federal safety valve and has satisfied its requirements, and therefore the Court can sentence the
12 defendant to less than the 60-month mandatory minimum term provided for in 21 U.S.C. §
13 841(b)(1)(B)(viii). *See* 18 U.S.C. § 3553(f); U.S.S.G. § 5C1.2; PSR ¶ 89.

14 **II. FACTUAL BACKGROUND**

15 **A. Defendant's Offense Conduct**

16 In 2019 and 2020, the government investigated the activities of the South Side Locos (SSL), a
17 subset of the Sureños criminal street gang that operates in and around Concord, California. During the
18 course of this investigation, the government identified the defendant, Mr. Navarro-Piñones, as a
19 distributor of methamphetamine both directly to individual buyers, as well as to co-conspirators, who
20 then exchanged the methamphetamine with others in exchange for cash. While he has been contacted
21 and observed by law enforcement on numerous occasions associating with Sureño gang members, the
22 defendant is not known to be a documented Sureño gang member.

23 During the course of this investigation, the defendant distributed over 187 grams of pure
24 methamphetamine in three separate transactions. In two such transactions, he supplied the drugs for
25 others to sell, including a transaction on October 15, 2019, in which he provided 111.3 grams of pure
26 methamphetamine for distribution to a buyer. In one transaction on January 3, 2020, he personally
27 exchanged 55.2 grams of methamphetamine for cash with a buyer. On all three occasions, the defendant
28 appeared to have held the methamphetamine supply in his home.

1 **III. PENALTIES**

2 **A. Statutory Penalty Ranges**

3 The maximum penalties for the charged offense, Conspiracy to Distribute Cocaine, Heroin, and
 4 Methamphetamine in violation of 21 U.S.C. §§ 846, 841(a)(1), 841(b)(1)(B)(viii), and 841(b)(1)(C), are
 5 (a) a minimum term of imprisonment of 5 years; (b) a maximum prison term of 40 years; (c) a maximum
 6 fine of \$5,000,000; (d) a maximum supervised release term of life, a minimum supervised release term
 7 of 4 years; (d) a mandatory special assessment of \$100; (e) forfeiture; (f) potential deportation; and (g)
 8 mandatory and discretionary denial of federal benefits upon conviction of drug offenses, 21 U.S.C. §
 9 862 and § 862a.

10 Because the defendant is eligible for relief under the federal safety valve and has satisfied its
 11 requirements, however, the Court can sentence the defendant without regard to the mandatory minimum
 12 sentence. *See* 18 U.S.C. § 3553(f); U.S.S.G. § 5C1.2; PSR ¶ 89

13 **B. Guidelines Range**

14 The government requests that the Court apply the proposed two-level downward departure for
 15 global disposition pursuant to U.S.S.G. § 5K2.0(a)(2)(B), which will conserve judicial and the parties'
 16 resources, in calculating the adjusted offense level and the guidelines sentence. The government further
 17 notes that the defendant is eligible for relief under the federal safety valve and has satisfied its
 18 requirements, and a two-level downward variance is appropriate. Accordingly, the government agrees
 19 with the Probation Officer that taking these two factors into consideration, the defendant's total offense
 20 level is 25. PSR ¶ 110. Defendant's Criminal History Category (CHC) is III.¹ PSR ¶ 61. The
 21 guidelines imprisonment range for offense level 25 and CHC III is 70-87 months.

22 **IV. LEGAL STANDARD**

23 The Court should impose a sentence sufficient, but not greater than necessary, to reflect the
 24 sentencing purposes identified in 18 U.S.C. § 3553(a)(2). *United States v. Carty*, 520 F.3d 984, 991 (9th
 25 Cir. 2008). The Sentencing Guidelines are "the 'starting point and the initial benchmark,'" *United*
 26

27 ¹ The government understands that the defendant may argue that the CHC overstates his criminal
 28 history. The government takes no position with respect to that argument, and makes its recommendation
 based on the low-end of the Guidelines for the agreed-upon offense level at the CHC determined by the
 Probation Officer.

1 *States v. Kimbrough*, 552 U.S. 85, 108 (2007) (quoting *United States v. Gall*, 552 U.S. 38, 49 (2007)),
 2 and are to be kept in mind throughout the process. *See Gall*, 552 U.S. at 50, n. 6. After determining the
 3 appropriate Guidelines calculations, the Court should then evaluate the sentence for substantive
 4 reasonableness in light of the factors set out in Section 3553(a). *Carty*, 520 F.3d at 991-93.

5 **V. SENTENCING RECOMMENDATION**

6 Taking the Section 3553 factors into account, a low-end Guidelines sentence of 70 months'
 7 imprisonment is sufficient but not greater than necessary to achieve the goals of sentencing.

8 The defendant distributed methamphetamine, exploiting the vulnerabilities of his potential
 9 customers to its highly addictive and destructive impact. During the course of the governments'
 10 investigation, he provided over 180 grams of methamphetamine for sale to individuals who ultimately
 11 turned out to be confidential informants. He personally exchanged the drugs for cash in one sale, and
 12 supplied the drugs for two other transactions. Distributing methamphetamine is serious criminal
 13 conduct that has lethal consequences for users and communities. Nat'l Inst. on Drug Abuse,
 14 "Methamphetamine Abuse and Addiction," Nat'l Inst. of Heath Pub. 13-4210 (rev. Sept. 2013) at 1.²
 15 The defendant's conduct merits a sentence of 70 months' imprisonment.

16 However, the government notes that the defendant, unlike several of his co-conspirators, did not
 17 sell any firearms during the course of the investigation, nor were any recovered from his home when he
 18 was arrested. He sold drugs in the vicinity of his home, but was not observed selling drugs at 1500
 19 Monument, as his co-conspirators did, thereby creating a hostile environment for community members
 20 and business owners. Significantly, the defendant appears to have repeatedly associated with known
 21 members of the Sureño gang, including the South Side Locos subset, but does not himself appear to be a
 22 validated member.³ Further, while he has numerous arrests, the defendant has only two prior
 23 misdemeanor convictions from 2018. PSR ¶¶ 57-58. His criminal history category is III only because
 24 he was on misdemeanor probation at the time of the instant offense. PSR ¶ 60.

25 A low-end Guidelines sentence of 70 months is thus a just punishment, which will promote

26
 27 ² This report is available at <https://www.drugabuse.gov/publications/research-reports/methamphetamine/letter-director>, and the tabs associated with it (last accessed July 27, 2021).

28 ³ The defendant has a tattoo which may indicate association with the gang, but the government does not have further evidence to support gang membership.

1 respect for the law, and will deter both Mr. Navarro-Piñones and others from peddling in destructive
2 substances like methamphetamine. It is a guidelines sentence that holds Mr. Navarro-Piñones
3 accountable for his conduct while balancing his speedy acceptance of responsibility as part of a global
4 disposition. The recommended sentence will further provide an important message to the defendant and
5 other potential wrongdoers that methamphetamine distribution in this community will not be tolerated
6 by the Court. The government requests that the Court impose the recommended sentence to deter this
7 defendant and any other potential wrongdoer from distributing methamphetamine.

8 **VI. CONCLUSION**

9 The government requests that the Court impose the recommended sentence of 70 months
10 imprisonment, followed by a 4-year term of supervised release, and a \$100 special assessment.

11 DATED: August 3, 2021

Respectfully submitted,

12
13 STEPHANIE M. HINDS
Acting United States Attorney

14 /s/
15 JONATHAN U. LEE
16 SAMANTHA SCHOTT BENNETT
Assistant United States Attorneys